



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
1400 Virginia Street
Oak Hill, WV 25901

Joe Manchin III
Governor

Patsy A. Hardy, FACHE, MSN, MBA
Cabinet Secretary

October 6, 2009

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held September 24, 2009. Your hearing request was based on the Department of Health and Human Resources' decision to deny prior authorization of laser surgery of the verruca right foot.

In arriving at a decision, the State Hearings Officer is governed by the Public Welfare Laws of West Virginia and the rules and regulations established by the Department of Health and Human Resources. These same laws and regulations are used in all cases to assure that all persons are treated alike.

Eligibility for the Medicaid program is based on current policy and regulations. These regulations provide that effective February 15, 2006 certain outpatient surgeries require prior authorization. Prior authorization is necessary before the service is provided (Podiatry Manual Chapter 520 §508).

The information submitted at your hearing failed to support the medical necessity of laser surgery of the verruca right foot.

It is the decision of the State Hearings Officer to **Uphold** the action of the Department to deny prior authorization of laser surgery of the verruca right foot.

Sincerely,

Kristi Logan
State Hearings Officer
Member, State Board of Review

cc: Board of Review
Bureau of Medical Services

**WEST VIRGINIA DEPARTMENT OF HEALTH & HUMAN RESOURCES
BOARD OF REVIEW**

-----,

Claimant,

v.

Action Number: 09-BOR-1655

**West Virginia Department of
Health and Human Resources,**

Respondent.

DECISION OF STATE HEARING OFFICER

I. INTRODUCTION:

This is a report of the State Hearing Officer resulting from a fair hearing concluded on September 24, 2009 for ----- . This hearing was held in accordance with the provisions found in the Common Chapters Manual, Chapter 700 of the West Virginia Department of Health and Human Resources. This fair hearing was convened on September 24, 2009 on a timely appeal, filed August 3, 2009.

II. PROGRAM PURPOSE:

The Program entitled Medicaid is administered by the West Virginia Department of Health & Human Resources.

The 1965 Amendments to the Social Security Act established, under Title XIX, a Federal-State medical assistance program commonly known as Medicaid. The Department of Health and Human Resources administers the Medicaid Program in West Virginia in accordance with Federal Regulations. The Bureau for Medical Services is responsible for development of regulations to implement Federal and State requirements for the program. The Department of Health and Human Resources processes claims for reimbursements to providers participating in the program.

III. PARTICIPANTS:

-----, Claimant

Virginia Evans, Bureau of Medical Services
Sharon Lopez, RN, West Virginia Medical Institute

All participants testified by phone.

Presiding at the Hearing was Kristi Logan , State Hearing Officer and a member of the Board of Review.

IV. QUESTIONS TO BE DECIDED:

The question to be decided is whether or not the Department's decision to deny prior authorization of laser surgery for the verruca right foot was correct.

V. APPLICABLE POLICY:

Podiatry Manual Chapter 520 §508

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Podiatry Manual Chapter 520 §508
- D-2 Podiatry Manual Chapter 520 §508 Attachment 3
- D-3 Prior Authorization Request Form dated July 15, 2009
- D-4 Denial Notification Letter dated July 22, 2009 to Claimant and Dr. [REDACTED]

Claimants' Exhibits:

None

VII. FINDINGS OF FACT:

- 1) A request for prior authorization for laser surgery for the verruca right foot was submitted for Claimant by Dr. [REDACTED] to the West Virginia Medical Institute (WVMI) on July 15, 2009 for approval (D-3). The Department issued a denial notification letter on July 22, 2009 which read in pertinent parts (D-4):

A request for prior authorization was submitted for outpatient services. Based on the medical information provided, the request has been denied.

The information provided does not meet the indications for this procedure. There has been no conservative treatment from provider. The preferable treatment for plantar's wart is conservative, as surgical results is a tender scar which is permanent.

- 2) Sharon Lopez, nurse reviewer with WVMI testified to the reasons for the denial of the surgery for Claimant's foot. According to the prior authorization request submitted by Claimant's physician, only over the counter medications were used for the removal of

the plantar's wart (D-3). There was no mention of other failed conservative treatments such as acid removal. Claimant's physician also failed to submit documentation of any exam findings.

Ms. Lopez stated the surgical removal of Claimant's plantar's wart would leave permanent and painful scarring. Therefore, conservative treatments are preferred. Ms. Lopez pointed out Claimant's physician had not requested a reconsideration of the denial.

- 3) Claimant testified that she tried over the counter medication first and her physician tried acid removal at least three (3) times, all with no success. The plantar's wart is very painful and keeps her awake at night.
- 4) Podiatry Manual Chapter 520 § 508 states:

Certain surgeries performed in place of service 22 (Outpatient Hospital) and 24 (Ambulatory Surgical Center) will require prior authorization, effective February 15, 2006. The selected surgeries that require prior authorization through the BMS [Bureau of Medical Services] review contractor are listed in Attachment 3, along with the PA [prior authorization] form that may be utilized.

VIII. CONCLUSIONS OF LAW:

- 1) The authorization form completed by Claimant's physician lacked information regarding failed conservative treatments as required by the Bureau of Medical Services criteria.
- 2) Although testimony from Claimant indicated conservative treatments have been tried with no results, documentation was not provided by her physician.
- 3) The Department correctly denied prior authorization of laser surgery of the verruca right foot for lack of medical documentation supporting the medical necessity of the procedure.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the decision of the Department to deny prior authorization of laser surgery of the verruca right foot for Claimant.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 6th day of October 2009.

**Kristi Logan
State Hearing Officer**